IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1081 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

NEELAM,D/O.PRAVINBHAI BABUBHAI SATROTIA,W/O.CHIRAG NITINBHAI - Applicant(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

==========

Appearance :
MR. BA PATEL for Applicant(s) : 1,
MR RC KODEKAR, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2 - 3.
MS NAYNABEN K GADHVI for Respondent(s) : 4,

==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 03/08/2007

ORAL JUDGMENT

1. Draft amendment allowed.

2. Present petition has been filed by the petitioner – original accused to quash and set aside the FIR being I CR No.112/2007 registered

with Bhavnagar Police Station for the offences punishable under sections 363 and 366 of the I.P.C.

3. It appears from the record that the complaint has been filed by the mother and grand-father of the petitioner for the offences punishable under sections 363 and 366 of the I.P.C. It also appears from the record that the petitioner has married with one Chirag Nitinbhai Dharkar on 22.5.2007 and it is stated by the petitioner that she had voluntarily gone with said Shri Chirag Nitinbhai Dharkar and is legally wedded wife of Shri Chirag Nitinbhai Dharkar and she has voluntarily married with Shri Chirag Nitinbhai Dharkar who is her husband now and there was no coercion or pressure and she has not been kidnapped by said Shri Chirag Nitinbhai Dharkar and she is voluntarily staying with him. Therefore, it is requested to quash the complaint.

4. Shri B.A.Patel, learned advocate appearing for the petitioner has submitted that in view of the above facts, the complaint be quashed as initiation of the prosecution is improper and further prosecution would only harass the accused and therefore, it is requested to exercise the powers under section 482 of the Cr.P.C. in the fact situation.

5. Ms. Mitu Bhatiya, learned advocate appearing for Ms. N.K.Gadhvi, learned advocate appearing for the respondent No.4 – original complainant has submitted that initially there were some disputes and the grievances with regard to the marriage, however, subsequently, on seeing the daughter with her husband, it prima facie appears that, they are staying happily. It is submitted that original complainant has no objection, if the impugned complaint is quashed and set aside as there is a settlement between the parties.

6. Considering the above and more particularly when the petitioner is now major, who has married with Shri Chirag Nitinbhai Dharkar and are staying happily, this Court has also asked certain questions to the girl – petitioner herein and it appears to the Court that the petitioner has married with Shri Chirag Nitinbhai Dharkar and are staying happily and even now the parents and the grand father and mother have no objections now and even the original complainant has also stated that the complaint be quashed, in the above facts and circumstances, more particularly, when the husband and wife are staying together happily, further prosecution would only harass the accused and this is the fit case to exercise powers under section 482 of the Cr.P.C. and to quash the complaint.

7. Accordingly, the impugned complaint being I CR No.112/2007 registered with Bhavnagar Police Station is hereby quashed and set aside. Rule is made absolute accordingly. Notice discharged.

(M.R.Shah, J.)

kdc